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**UNITED STATES DISTRICT COURT**

**DISTRICT OF NEVADA**

MICHAEL COTA,

Plaintiff

v.

COPPER HILLS YOUTH CENTER,  
BRET MARSHALL, M.D.,  
DAVID H. GAMBLES, Ph.D.,

Defendants

Case No.: 3:21-cv-00385-MMD -WGC

**Report & Recommendation of  
United States Magistrate Judge**

Re: ECF Nos. 18, 20

This Report and Recommendation is made to the Honorable Miranda M. Du, United States District Judge. The action was referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and the Local Rules of Practice, LR 1B 1-4.

Plaintiff has filed an application to proceed in forma pauperis (IFP) (ECF No. 18) and pro se civil rights complaint (ECF No. 1). There is also pending a motion to reinstate his previously filed motion for preliminary injunction. (ECF No. 20.)

Plaintiff sues Copper Hills Youth Center, Bret Marshall, M.D., and David H. Gambles, Ph.D., whom he alleges all reside in West Jordan, Utah. (ECF No. 1-1 at 2.) He alleges that he received treatment at Copper Hills Youth Center residential treatment center; that Dr. Marshall prescribed him illegal medication there; and Dr. Gambles authorized a false psychology report there.

Plaintiff has not alleged that any defendant resides in the District of Nevada, that any of the events giving rise to the action transpired here, and has not otherwise alleged any connection to this District. Therefore, it appears that the court lacks personal jurisdiction over the defendants and venue is improper here. When venue is improper, the district court where the case is filed

1 “shall dismiss, or if it be in the interest of justice, transfer such case to any district or division in  
 2 which it could have been brought.” 28 U.S.C. § 1406(a). It is recommended that this action be  
 3 dismissed without prejudice, and the case in the District of Nevada be closed, so that Plaintiff  
 4 may bring his case in the District of Utah if he desires. As a result, Plaintiff’s IFP application  
 5 (ECF No. 18) and his motion to reinstate his motion for preliminary injunction (ECF No. 20)  
 6 should be denied as moot.

### 7 RECOMMENDATION

8 IT IS HEREBY RECOMMENDED that the District Judge enter an order **DISMISSING**  
 9 this action **WITHOUT PREJUDICE**, and closing the case in the District of Nevada, and  
 10 **DENYING AS MOOT** his pending IFP application (ECF No. 18) and motion to reinstate his  
 11 motion for preliminary injunction (ECF No. 20).

12 Plaintiff should be aware of the following:

13 1. That he may file, pursuant to 28 U.S.C. § 636(b)(1)(C), specific written objections to  
 14 this Report and Recommendation within fourteen days of being served with a copy of the Report  
 15 and Recommendation. These objections should be titled “Objections to Magistrate Judge’s  
 16 Report and Recommendation” and should be accompanied by points and authorities for  
 17 consideration by the district judge.

18 2. That this Report and Recommendation is not an appealable order and that any notice of  
 19 appeal pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure should not be filed  
 20 until entry of judgment by the district court.

21 Dated: January 4, 2022

22 

23 William G. Cobb  
 United States Magistrate Judge